

Decision 11-06-009 June 9, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Transit Unlimited Services LLC for a Certificate of Public Convenience and Necessity to operate as a Scheduled Passenger Stage Company between various points in the Counties of San Francisco, San Mateo, Santa Clara, Alameda, Santa Cruz and Monterey; and to establish a Zone of Rate Freedom.

Application 11-01-022
(Filed January 26, 2011)

D E C I S I O N

Summary

This decision grants the application of Transit Unlimited Services LLC (Applicant), a limited liability company, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a zone of rate freedom (ZORF), pursuant to Pub. Util. Code § 454.2.

Discussion

The application, as supplemented by correspondence dated May 2 and May 12, 2011, requests authority to operate as a PSC to transport passengers and their baggage on a schedule basis between certain points in San Francisco, Alameda, Santa Clara, Santa Cruz, and Monterey Counties.¹ Applicant wishes to operate two distinct transportation services. The first is for university students

¹ The application originally included one point in San Mateo County. Applicant has withdrawn that point from the application.

in the South Bay who wish to travel to San Francisco to enjoy the nightlife it offers. Applicant states there is a need for the service because Caltrain rail service ends too early and local bus service provided by SamTrans and Valley Transportation Authority is too slow. Applicant believes this service could help to curb drunk driving.

The second service is transportation to special events such as professional and college sport games, concerts, and festivals. Examples of the venues involved are Shoreline Amphitheatre in Mountain View, Montalvo Arts Center in Saratoga, and Memorial Stadium at the University of California in Berkeley. Applicant explains that under current Federal Transit Administration regulations, public transit providers are restricted from operating special event bus service except in certain circumstances. The proposed service will help to address gaps that exist in the current transit network and potentially reduce parking demand and traffic congestion.

Applicant states it has the knowledge and ability to operate the proposed services. Its owner has ten years' experience in the transportation industry as a transit advocate, a commute coordinator at San Jose State University, and a pedicab operator. Service will be provided initially with one 40-passenger transit bus. Applicant's financial statement, attached to the application as Exhibit E, discloses assets of \$159,208, liabilities of \$50, and net worth of \$159,158.

The proposed one-way fares range between \$12 and \$20. Applicant requests authority to establish a ZORF of 50% above and below these fares. It will compete with other PSCs, charter vehicles, taxicabs, public transit and private automobiles in its service areas. This competitive environment should result in Applicant pricing its services at a reasonable level. Many other PSCs have been granted ZORFs. The requested ZORF is generally consistent with the ZORFs held by other PSCs.

The City and County of San Francisco (The City), through its Municipal Transportation Agency (SFMTA), filed a Response² to the application on March 4, 2011. SFMTA is responsible for operating bus, rail, cable car, and historic streetcar services in San Francisco. It also is charged with regulating the flow of vehicle, bicycle, and pedestrian traffic, including regulations for vehicle parking, stopping, and standing. The Response raises concerns that Applicant's service could impact or interfere with either the public transit service operated by SFMTA or the flow of traffic in San Francisco. The City indicates it would be better able to evaluate the potential impacts if it had more information about Applicant's proposed routes and locations for loading and unloading passengers within San Francisco.

The City subsequently discussed its concerns with Applicant. As a result, Applicant has agreed to certain conditions requested by The City, as follows:

- Applicant will not use any "Muni" bus stops for passenger loading or unloading.
- Applicant will not double-park on city streets in the course of providing service.
- If providing service to or from AT&T Park, Applicant will use only the designated bus parking area for AT&T Park located on the west side of Terry Francois Boulevard across the street from Piers 48 and 50 for passenger loading and unloading and for parking during events, and Applicant's vehicles shall not stop in any of the NO STOPPING zones located around the periphery of AT&T Park or on nearby streets.

² Rule 2.6(c) of the Commission's Rules of Practice and Procedures provides: "Any person may file a response that does not object to the authority sought in an application, but nevertheless presents information that the person tendering the response believes would be useful to the Commission in acting on the application."

The agreement is set forth in a Stipulation executed by the parties on April 7, 2011, and filed with the Commission on April 12, 2011. Applicant and The City request that the above conditions be incorporated into any decision of the Commission granting the application.

The agreement between the parties is reasonable. Essentially, it requires Applicant to observe local parking and passenger loading and unloading regulations when conducting operations in San Francisco. We have no objection to directing Applicant to comply with the conditions and including them in the PSC certificate.

Notice of filing of the application appeared in the Commission's Daily Calendar on February 2, 2011. Applicant served a copy of the application to the public transit operators in the service area and sent a notice of the application to the affected cities.

In Resolution ALJ 176-3269 dated February 24, 2011, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3269.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The application requests authority to operate as a scheduled PSC to transport passengers and their baggage between certain points in five counties.

2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a ZORF of 50% above and below the proposed fares described in the application.
4. Applicant will compete with other PSCs, charter vehicles, taxicabs, public transit, and private automobiles in its operations. The ZORF is fair and reasonable.
5. A Response to the application was filed on behalf of The City by SFMTA.
6. To satisfy concerns raised in the Response, Applicant has entered into an agreement with The City that is designed to ensure Applicant's observance of parking and passenger loading and unloading regulations when operating in San Francisco.
7. No protest to the application has been filed.
8. A public hearing is not necessary.
9. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application should be granted.
2. The request for a ZORF should be granted.
3. Before Applicant changes any fares under the ZORF authorized below, Applicant should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.
4. Applicant should be ordered to comply with the terms of the Stipulation it executed with The City and the three conditions contained therein should be included in the PSC certificate.

5. Since the matter is uncontested, the decision should be effective on the date it is signed.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Transit Unlimited Services LLC (Applicant), a limited liability company, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix PSC-27669, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this decision is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this decision is effective.
- c. File tariffs and timetables on or after the effective date of this decision. They shall become effective ten days or more after the effective date of this decision, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.

h. Enroll all drivers in the pull notice system as required by Vehicle Code § 1808.1.

3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of 50% above and below the fares described in the application.

4. Applicant shall file a ZORF tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this decision.

5. Applicant may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.

6. In addition to posting and filing tariffs, Applicant shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Applicant is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicant's vehicles for service.

8. Before beginning service to any airport, Applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

9. Applicant shall comply with the terms of the Stipulation it executed with the City and County of San Francisco.

10. The CPCN to operate as PSC-27669, granted herein, expires unless exercised within 120 days after the effective date of this decision.

11. The Application is granted as set forth above.

12. This proceeding is closed.

This decision is effective today.

Dated June 9, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-27669

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

Transit Unlimited Services LLC, a limited liability company, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on a scheduled basis between the points described in Section II, over the routes described in Section III, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- A. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- B. Service shall be operated only at the points described in Section II. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable filed with the Commission.
- C. Service may be operated to coincide with special events.
- D. Service conducted in the City and County of San Francisco shall be subject to the following conditions:
 - (1) Carrier will not use any "Muni" bus stops for passenger loading or unloading.
 - (2) Carrier will not double-park on city streets in the course of providing service.
 - (3) If providing service to or from AT&T Park, carrier will use only the designated bus parking area for AT&T Park located on the west side of Terry Francois Boulevard across the street from Piers 48 and 50 for passenger loading and unloading and for parking during events, and carrier's vehicles shall not stop in any of the NO STOPPING zones located around the periphery of AT&T Park or on nearby streets.

SECTION II. SERVICE AREA.

Points in the following cities:

San Francisco San Jose Saratoga Fremont
Santa Clara Mountain View Oakland Pacifica
Palo Alto (including Stanford University)
Santa Cruz (including University of California)
Monterey (including Monterey County Fairgrounds, Mazda Raceway
Laguna Seca, and Pebble Beach)
Berkeley (including University of California)

SECTION III. ROUTE DESCRIPTIONS.

Route 1

Between Monterey and San Jose.

Route 2

Between Santa Cruz and San Jose or San Francisco.

Route 3

Between San Francisco and Palo Alto, Mountain View, Saratoga, or San Jose.

Route 4

Between San Jose and Mountain View, Palo Alto, or Saratoga.

Route 5

Between San Francisco and Fremont, Oakland, or Berkeley.

Route 6

Between Fremont, Oakland, or Berkeley and San Jose, Santa Clara, or Palo Alto.

Route 7

Between Pacifica and San Francisco.